

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION

**PATRICK HOWARD,
TDCJ No. 00769553,**

§
§
§

Petitioner,

§
§
§

v.

Civil Action No. 7:20-cv-093-O-BP

**BOBBY LUMPKIN,¹ Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,**

§
§
§

Respondent.

§

**ORDER ACCEPTING FINDINGS, CONCLUSIONS,
AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made Findings, Conclusions, and a Recommendation in this case. No objections were filed and the Magistrate Judge's Recommendation is ripe for review. The District Judge reviewed the proposed Findings, Conclusions, and Recommendation for plain error. Finding none, the undersigned District Judge believes that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court.

As stated by the Magistrate Judge, when a petition for writ of habeas corpus is second or successive, the petitioner must seek an order from the United States Court of Appeals for the Fifth Circuit that authorizes this Court to consider the petition. *See* 28

¹ The previously named Respondent in this action was Lorie Davis. On August 11, 2020, Bobby Lumpkin succeeded Lorie Davis as Director of the Correctional Institutions Division. Under Rule 25(d)(1) of the Federal Rules of Civil Procedure, Bobby Lumpkin "is automatically substituted as a party."

U.S.C. § 2243(b)(3)(A). Because the instant petition is successive, the district court is without authority to entertain the petition unless leave to file is granted by the Court of Appeals.

It is therefore **ORDERED** that the petition for writ of habeas corpus, brought pursuant to 28 U.S.C. § 2254, is hereby **TRANSFERRED** to the United States Court of Appeals for the Fifth Circuit pursuant to *Henderson v. Haro*, 282 F.3d 862, 864 (5th Cir. 2002) and *In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997).

SO ORDERED this **21st day of August, 2020.**



Reed O'Connor
UNITED STATES DISTRICT JUDGE